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ENVIRONMENT, PARLIAMENT AND GOVERNMENT IN CANADA



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ENVIRONMENT, PARLIAMENT AND GOVERNMENT IN CANADA

INTRODUCTION

The recent appearance of the expressions "quality of life" and "quality of the environment" reflect the emergence of a new social conscience. As never before, mankind is interested in preserving and protecting the natural environment. The concepts of globalization of the environment, integration of knowledge, and ecological point of view indicate the emergence of a new perception in dealing with the environmental challenges facing us in the closing years of this century.

The United Nations Conference on the Environment, held in Stockholm in 1972, provided a forum for voicing the fears that first emerged in the 1960s. This international meeting led to the creation of the United Nations Environment Program (UNEP) to encourage member countries to work toward more rational development of their resources. However, although UNEP often took very firm action, it never became the powerful world force some had hoped. It is generally acknowledged that whenever political and economic interests become an immediate concern, governments are often reluctant to yield power to an international organization.

Since UNEP was founded, the pressure exerted by groups working for a quality environment has unquestionably accelerated the process of changing the law to protect the environment. The new awareness of the physical limitations on resources and the tragic consequences of their uncontrolled exploitation has fostered the development of new attitudes and techniques that will determine the quality of tomorrow's environment. In Canada, as in many other countries, closer interaction between the public, political authorities and the scientific community have

made possible the introduction of innovative mechanisms designed to protect the environment from destructive development. To this end, a federal Department of the Environment was created in June 1971. Today, this department is responsible for enforcement of 16 federal acts within its jurisdiction and for certain areas specified in acts under the jurisdiction of other departments or agencies.

Pollution, erosion and acidification are common terms today, and it is essential that we have complete and accurate information when making any practical decision aimed at reducing the adverse effects of these scourges. More than ever, parliamentarians the world over must take up the challenge of integrating a vast range of information to draft environmental legislation whose scope will take into account social and economic aspects.

With this in mind, the Inter-Parliamentary Conference on Environment held in Nairobi, Kenya, in November and December 1984 brought together 168 delegates from 46 countries for workshops on major themes such as the atmosphere, oceans, deforestation, preservation of biological resources, desertification, soil erosion, non-destructive development, legislation and incentive measures intended to protect the environment. The Conference adopted more than 50 recommendations aimed at implementing programs and legislative measures at the regional, national and international levels, while emphasizing follow-up on these recommendations.⁽¹⁾

This study reviews some of the measures taken by the Government of Canada since the Nairobi Conference to ensure ordered development of the environment. Following an overview of Parliament's activities and accomplishments and of relevant constitutional and legislative measures, the study examines specific areas with an important environmental role. Some comments from the recent impressive report of the World Commission on Environment and Development are also discussed.

(1) Canadian Group, Inter-Parliamentary Union, Report of the Inter-Parliamentary Conference on Environment, Nairobi, 26 November to 1 December 1984, Ottawa, n.d., p. 1-3.

ACTIVITIES AND ACCOMPLISHMENTS OF CANADA'S PARLIAMENT

In addition to the opportunity for Canadian parliamentarians to take part in debates in the House and the Senate, committees provide additional scope for them to play an active role in examining issues of public interest. Aside from the Committee of the Whole, which is composed of the entire House of Commons, there are five different types of committees to which MPs can belong: standing committees, sub-committees, special committees, joint committees (comprised of Members of the House of Commons and Senators) and legislative committees.

At present, no one standing committee of the House of Commons deals exclusively with environmental issues, but some committees, such as the Agriculture Committee, the Energy, Mines and Resources Committee, the Fisheries and Oceans Committee and the Health and Welfare Committee, given the nature of their concerns, may be asked to examine bills, estimates and other matters in this area.

The Provisional Standing Orders adopted on 24 February 1986 by the House of Commons resulted in the creation of a Standing Committee on Environment and Forestry. As its name indicates, this committee should spend a good part of its time studying environmental issues. In June 1986, it tabled its first report, entitled Forest Resources and Industries in Eastern Canada.⁽²⁾ In addition to formulating 27 recommendations for the House's consideration, the report examines many problems (deforestation, insect infestations, acid rain) currently threatening the forest resources in Eastern Canada. In February, March and April 1987, the Committee gave special attention to the problem of storage and disposal of highly radio-active nuclear waste. After hearing nine witness groups and visiting Atomic Energy of Canada Limited's Whiteshell Nuclear Research Establishment and Underground Research Laboratory at Pinawa, Manitoba, the

(2) House of Commons, Standing Committee on Environment and Forestry (Lorne Greenaway, Chairman), Forest Resources and Industries in Eastern Canada, Ottawa, June 1986, 108 p.

Committee will work to draft recommendations and table its report when Parliament resumes sitting in the fall.

Some Senate committees, namely the Agriculture and Forestry Committee, the Fisheries Committee and the Energy and Natural Resources Committee, also focus their attention on environmental issues. In June 1984, the Standing Senate Committee on Agriculture, Fisheries and Forestry (which has since been divided into two separate committees) released a major report on soil conservation in Canada. Entitled Soil at Risk,⁽³⁾ the Senate report attracted a great deal of interest both in Canada and abroad.

Pursuant to an Order of Reference in the House of Commons, a special committee of parliamentarians was created on 4 June 1985 to hold public hearings and hear testimony on all aspects of the acid rain issue. This committee grew out of the former Sub-committee on Acid Rain, which reported to the Standing Committee on Fisheries and Forestry. The Sub-committee's accomplishments included the release of two important reports, Still Waters⁽⁴⁾ and Time Lost.⁽⁵⁾

As well, a Special Joint Committee of the Senate and of the House of Commons on Canada's International Relations tabled, in June 1986, an impressive report entitled Independence and Internationalism.⁽⁶⁾ Besides submitting a substantial recommendation on safety measures relating to nuclear power, the Committee recommended that:

the government of Canada investigate the possibility of bringing the United Nations Environment Program (UNEP) into the mainstream of regularly funded UN specialized agencies and, in general, do everything possible to enhance the effectiveness of UNEP. The government should also continue to take the lead internationally in arousing concern about deterioration in the

(3) Senate, Standing Committee on Agriculture, Fisheries and Forestry (H.O. Sparrow, Chairman), Soil at Risk, Ottawa, June 1984, 129 p.

(4) House of Commons, Sub-committee on Acid Rain (Ronald Irwin, Chairman), Still Waters, Ottawa, 1981, 150 p.

(5) House of Commons, Sub-committee on Acid Rain (Ronald Irwin, Chairman), Time Lost, Ottawa, 1984, 71 p.

(6) Senate and House of Commons, Special Joint Committee on Canada's International Relations (Jean-Maurice Simar and Tom Hockin, Joint Chairmen), Independence and Internationalism, Ottawa, June 1986, 196 p.

environment and cooperate with other like-minded states in pressing for preventive and remedial action.(7)

Lastly, it should be mentioned that the House can refer draft legislation for consideration to legislative committees specially set up for this purpose. Following is a list of bills tabled in 1986 which deal with environmental concerns, with the dates on which the legislative committees directed to study these bills were created:

- ° Bill C-257: Conservation, Export and Diversion of Water Resources (15 January 1986);
- ° Bill C-266: Quality of Drinking Water in Canada (13 March 1986);
- ° Bill C-276: Quality of Drinking Water in Canada (13 March 1986);
- ° Bill C-279: Arctic Waters Pollution Prevention (13 March 1986).

Thus far, not one of these Private Members' bills has progressed to second reading in the House. Moreover, with the end of the 1st session of the 33rd Parliament during the summer of 1986, the study of the bills was cancelled until they might be reintroduced to the House during the debates of a subsequent session of Parliament. Preservation and improvement of the quality of drinking water were again addressed in Bill C-224, tabled on 15 October 1986, but no legislative committee has been created to study this bill.

MPs are greatly concerned about water-related issues, largely because of the recent findings of the Inquiry on Federal Water Policy. Created in January 1984 pursuant to section 26 of the Canada Water Act, the Inquiry was composed of MPs appointed by the Minister of the Environment. After holding numerous public hearings across the country, the Inquiry tabled its final report, Currents of Change,⁽⁸⁾ in September 1985. This report examined the extent and distribution of Canada's water resources, the growing demand for water, emerging pollution problems and the relevance of federal water policies and programs. Some 56 recommendations as well as several other proposals were put forward in an effort to

(7) Ibid., p. 44.

(8) Inquiry on Federal Water Policy (Peter H. Pearse, Chairman), Currents of Change, Ottawa, September 1985, 222 p.

improve the government's ability to protect and manage Canada's water resources in light of increasingly numerous and pressing requirements.

On 5 November 1982, an Order in Council (P.C. 1982-3438) led to the establishment of the Royal Commission on the Economic Union and Development Prospects for Canada. The Commission was given a mandate to examine and report on the long-term economic opportunities, prospects and challenges of the Canadian federation and its regions and their impact on economic and government institutions and on the management of the country's economy. It published its report nearly three years later, on 5 September 1985.⁽⁹⁾ The authors state that in the coming decades, an important consideration will be to integrate environmental decisions with economic decisions. In the opinion of the commissioners, economic development and the preservation and enhancement of a healthy environment and a sustainable resource base do not present any contradictions.⁽¹⁰⁾ It should be noted that the Commission also had 72 studies carried out, the reports of which served as working documents. Two of these deal in particular with the environment: Consumer Protection, Environmental Law, and Corporate Power⁽¹¹⁾ and Canada's Resource Industries.⁽¹²⁾

It should also be noted that in September 1984, a Ministerial Task Force on Program Review was appointed. As part of its overall study, the Task Force was asked to undertake a review of the programs of the Minister of the Environment. A joint study team made up of both private and public sector experts and, notably, of provincial and

(9) Royal Commission on the Economic Union and Development Prospects for Canada (Donald S. Macdonald, Chairman), Report, Ottawa, 1985, Vol. I, 385 p.; Vol. II, 827 p.; Vol. III, 699 p.

(10) Royal Commission on the Economic Union and Development Prospects for Canada, "Natural Resources and Environment", Information, Ottawa, 5 September 1985, p. 16.

(11) Ivan Bernier and Andr  e Lajoie (Research Coordinators), Vol. 50 of the studies commissioned by the Royal Commission on the Economic Union and Development Prospects for Canada, Ottawa, Supply and Services Canada, 1986, 220 p.

(12) John Whalley (Research Coordinator), Vol. 14 of the studies commissioned by the Royal Commission on the Economic Union and Development Prospects for Canada, Ottawa, Supply and Services Canada, 1986, 247 p.

municipal government representatives, reviewed 33 programs related to environmental and heritage conservation and protection. The Study team presented its report in July 1985.⁽¹³⁾ Subsequently, a second study team was appointed to determine whether changes were required to the structure of the federal government for the delivery of its environment quality mandate. This study team's report proposes a series of options for dealing with environmental issues and leading to an anticipatory and preventive approach in a national, cooperative mode.⁽¹⁴⁾ The study teams' reports are the first step in the discussion process within Cabinet. They present concrete options and recommendations to the Ministerial Task Force.

Finally, as a sign of the times and in response to the latest trends, the Canadian Council of Resource and Environment Ministers (CCREM) created the National Task Force on Environment and Economy in January 1987. The 17-member Task Force, consisting of provincial and federal ministers and corporate decision-makers, must develop a national action plan by the end of September 1987 to link economic development and environmental protection efforts.⁽¹⁵⁾

CONSTITUTIONAL, LEGISLATIVE AND REGULATORY PROVISIONS⁽¹⁶⁾

At the Inter-Parliamentary Conference on Environment held in Nairobi in 1984, it was recommended, among other things, that the protection and enhancement of the environment should be recognized as a constitutional objective by participating countries. In Canada, the

(13) Study Team Report to the Task Force on Program Review, Programs of the Minister of the Environment, Ottawa, July 1985, 346 p.

(14) Study Team Report of the Task Force on Program Review, Environmental Quality Strategic Review, Ottawa, February 1986, 170 p.

(15) National Task Force on Environment and Economy, Press Release, "National Environment Task Force Underway: Winnipeg Meet to Examine Environment, Economy Links", Winnipeg, 23 January 1987, 4 p.

(16) This section is largely excerpted from J.P. Amyot and D. Johansen, Progress Made by Canada in Implementing the Recommendations of the Inter-Parliamentary Conference on the Environment, a study prepared for the Inter-Parliamentary Union, Ottawa, Library of Parliament, 19 January 1987, p. 6-11.

Canadian Charter of Rights and Freedoms has been enacted as a key part of the Constitution Act, 1982,⁽¹⁷⁾ which came into force on 17 April 1982. In the area of environmental law, section 7 of the Charter is potentially important since it provides that:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

It is therefore possible that rights to a clean and healthy environment could be asserted by citizens based on the section 7 "security of the person" guarantee. Section 1 of the Charter provides that rights and freedoms are guaranteed subject only "to such reasonable limits prescribed by law as can be demonstrated in a free and democratic society."

Since the Nairobi Conference, Canada has ratified several international agreements pertaining to the environment. The Protocol of the 1979 Convention on Long-Range Transboundary Air Pollution on Long-Term Financing of the Co-operative Program Monitoring and Evaluation of the Long-Range Transmission of Air Pollutants in Europe (EMEP) was adopted on 28 August 1984 by the Executive body of the Convention. Canada signed the Protocol on 3 November 1984 and ratified it on 4 December 1985. The Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on the Reduction of Sulfur Emission or Their Transboundary Fluxes by at Least 30% was adopted on 8 July 1985 by the Executive body of the Convention. Canada signed the Protocol on 9 July 1985 and ratified it on 4 December 1985. Finally, on 22 March 1985, Canada signed the Vienna Convention for the Protection of the Ozone Layer; on 4 June 1986, it was the first country to ratify the Convention, under which the 28 member nations agreed to protect health and the environment from adverse effects caused by a reduction in the ozone layer of the stratosphere. In September 1987, international talks will be held in Montreal to draft a protocol aimed at reducing the production of chlorofluorocarbons, which are the cause of this problem.

Canadian legislation and federal-provincial agreements were already in place prior to Canada's ratifying the above international

(17) Enacted as Schedule B to the Canada Act, 1982, (U.K.) 1982, c. 11.

instruments. The commitments made as a result of domestic requirements in Canada for the protection of the environment extend beyond the requirements in the above agreements.

One of the recommendations resulting from the Nairobi conference was that each national Parliament consider holding a one-day meeting annually, at its convenience, to discuss environmental concerns. The Canadian Parliament to date has not decided to hold such a meeting. Nevertheless, the fact that several days of parliamentary debates in 1986 dealt with environmental issues attests to their increasing importance.

Other recommendations concerned features which should be incorporated in domestic environmental legislation. In this area, Canada does not have one general piece of national legislation covering all aspects of the issue. Instead, provisions are contained in a number of federal and provincial statutes. The reason for this is that Canada is a federation with legislative powers divided between the federal Parliament and the provincial legislatures, as set out in the Constitution Act, 1867. It was not foreseen in 1867 that environmental management would become a concern. Hence, powers that may be used for environmental protection are divided between the two levels of government. In general, both levels have a wide variety of powers that can be used to deal with environmental issues.

At the federal level, the following areas of jurisdiction appear to be the main support of federal environmental legislation: criminal law; seacoast and inland fisheries; navigation and shipping; taxation; regulation of trade and commerce; spending power; and the federal general power. At the provincial level, three areas of jurisdiction -- property and civil rights in the province, matters of a local or private nature in the province, and local works and undertakings -- appear ample to cover most problems that arise in the field of environmental law.

In some cases, Parliament has the exclusive power to legislate, while in others the power lies with the provinces; in yet other cases, Parliament and the provincial legislatures have concurrent jurisdiction. It must be borne in mind, of course, that where valid

federal and provincial legislation overlap, the provincial legislation is inapplicable to the extent that it is in direct conflict with the federal legislation.

In the area of air and water pollution control, for example, statutes have been enacted over the past number of years by the federal Parliament and by all the provincial legislatures. Two of the main federal statutes, the Clean Air Act⁽¹⁸⁾ and the Canada Water Act⁽¹⁹⁾ are designed partly to deal with the control of air or water pollution that is within the ambit of federal responsibility, and partly to provide a framework for cooperative federal-provincial air and water pollution control efforts. At the provincial level, some provinces include both air and water pollution in a general pollution control statute, while other provinces have separate air and water pollution statutes.

An example of a relevant provision in a federal statute is section 33(2) of the Fisheries Act.⁽²⁰⁾ This provision prohibits any person or corporation, from depositing or permitting the deposit of a "deleterious substance" in water frequented by fish or in any place under any conditions where such substance may enter such water. The term "deleterious substance" is exhaustively defined in the Act, which provides a penalty for anyone who violates the provision.

Canadian environmental policy recently achieved major strides with the tabling of three major bills. Bill C-39, entitled An Act to amend the Canada Shipping Act and to amend the Arctic Waters Pollution Prevention Act, the Maritime Code Act and the Oil and Gas Production and Conservation Act in consequence thereof, was passed by the House of Commons and the Senate and received Royal Assent on 26 March 1987. Among other things, this Act provides for the creation of a fund for pollution caused by ship-source oil.

On 11 December 1986, the federal Minister of the Environment tabled Bill C-30, which introduces sweeping reform of the National Parks Act. With the exception of a few amendments in 1974, the Act has not

(18) S.C. 1970-71-72, c. 47.

(19) R.S.C. 1970 (1st supplement), c. 5.

(20) R.S.C. 1970, c. F-14.

been significantly altered since it was enacted in 1930. The 37 suggested amendments include very strict measures against poaching.(21) A legislative committee was created in January 1987 to study the bill.

On 18 December 1986, the Minister also tabled in the House a draft bill on environmental protection. When released for public comment, this text was the subject of many meetings across the country. These, and the 350 written briefs and submissions which the Minister received, resulted in specific recommendations for more than 100 changes. In addition, countless clarifications in the wording of the bill were possible because of suggestions by the public. The result was a substantial re-drafting of most of the bill.(22)

The new proposed Canadian Environmental Protection Act (CEPA) was tabled in the House on 27 June 1987. The purpose of this Bill C-74 is to ensure the full protection of the environment in federal legislation in Canada. The Act recognizes three overriding concerns: safeguarding the environment for its own sake, protecting it because of its direct link to human health and, finally, preventing the potentially harmful effects on health of some changes in the environment. In addition, biotechnology represents a completely new field that must be regulated under CEPA. Finally, in addition to mandatory assessment and testing of all new chemical products entering Canada, the bill provides for exhaustive assessment of existing chemical products.(23)(24)

The core of the Act is concerned with control and regulation of toxic substances during their full life cycle, namely, from research and development through production, transportation, use and storage, to ultimate disposal. The bill consolidates the environmental protection powers of the Clean Air Act, the Environmental Contaminants Act, the Canada Water Act, Part III, the Ocean Dumping Control Act, and the Department of the

(21) Environment Canada, Preserve and Protect: an Overview of Amendments to the National Parks Act, Ottawa, December 1986, 6 p.

(22) Environment Canada, Canadian Environmental Protection Act: Highlights and Steps to Implementation, Ottawa, Spring 1987, p. 5.

(23) Ibid., p. 1-3, 14-15.

(24) Health and Welfare Canada, Statement by the Honourable Jake Epp, Minister of Health and Welfare, Information, Ottawa, 26 June 1986, 2 p.

Environment Act, section 6(2). Serious violations of the Act's provisions may result in criminal prosecution with a maximum penalty of life imprisonment.

Revisions and new regulations will be required in accordance with the Citizens' Code of Regulatory Fairness which guarantees public consultation and participation.

Beyond the area of legislation, a technique that has received considerable attention in Canada at the federal level and in several provinces is the environmental assessment process. At the federal level, the Environmental and Assessment Review Process (EARP) was given policy approval by Cabinet on 20 December 1973 and later amended. Procedures to implement the Cabinet directive were developed initially by the Interdepartmental Committee on the Environment. The procedures were subsequently published as a guide, which has since been revised. The federal process and its procedure are completely non-statutory. The process generally requires that, early in planning and before irrevocable decisions are made, federal government departments must fully consider the environmental and directly related social implications of their proposals. When potential implications are significant, the proposals are referred to the Minister of the Environment for public review. Each review is conducted by a specifically appointed panel that holds public hearings in communities which would be affected by the proposal. The panel reports to the Minister and recommendations may result in alterations to proposals or, on occasion, their abandonment or postponement. It should be noted that the federal government will soon release a working paper on the various options available for improving EARP. Among other things, the document will highlight the need to avoid the current overlap of public studies of federal government projects.(25)

An example of a major project reviewed by the Environmental Assessment Review Panel was the Lepreau II nuclear power station in New Brunswick. Public hearings were held in November 1984 to discuss the power station's environmental and social impacts. The EARP report, published in

(25) Environment Canada (1987), p. 15.

May 1985, contained 39 recommendations aimed at minimizing damage to the environment.

A number of provinces also have environmental assessment processes in place. One of the most extensive is that under Ontario's Environmental Assessment Act.⁽²⁶⁾ As under the federal process, the Act provides, among other things, for public hearings on proposals subject to the environmental assessment procedure.

SPECIFIC AREAS

A. Knowledge, Action and Reaction

The most cursory examination of the present state of our planet's environment shows that all of the world's nations face threats to the stability of the biosphere. All must acknowledge and comprehend this sad reality. Mankind is dependent on his relationship with the environment whose quality affects his condition. It is an increasingly accepted fact that only through an adequate educational process will we succeed in mastering our shortcomings so as to achieve global solidarity in warding off the disasters threatening us all.

To this end, Environment Canada recently published a first report on the integrated evolution of environmental changes and their impact on the Canadian population. The State of the Environment Report for Canada,⁽²⁷⁾ prepared in cooperation with Statistics Canada, documents our environmental heritage and provides a benchmark by which to measure change, since it will be updated in future. This first document is complemented by the second edition of a statistical compendium⁽²⁸⁾ of

(26) R.S.O. 1980, c. 140.

(27) Environment Canada, State of the Environment Report for Canada, Ottawa, 1986, 263 p.

(28) Environment Canada, Human Activity and the Environment, Ottawa, 1986, 374 p.

human activities in resource consumption, constructing and restructuring of landscapes, and waste production. It also focuses on the impact of these activities on soil, water, air, plants and animals.

The State of the Environment Report for Canada accurately describes trends and conditions present in this vast and diverse land. Furthermore, by using the stress-reaction concept, it is now possible to assess the extent to which human activities and natural factors influence environmental conditions. The stress-reaction concept makes it possible to establish a link between the effects of economic activity and environmental change. It is worth noting that Environment Canada has made available to the public an excellent free pamphlet summarizing the highlights of the report.⁽²⁹⁾ Moreover, Environment Canada and Statistics Canada have agreed to develop an environmental reporting system to keep Canadians fully informed about the state of their environment. One such report would focus on levels of contaminants in the environment and their effects. A national report on the state of the environment will be published every five years.⁽³⁰⁾

Many Canadians believe that the quality of their environment is deteriorating. Of the issues that concern them, acid rain and toxic chemicals head the list. According to a survey conducted in 1985, more than 90% of Canadians believe that every major economic project should be proven environmentally sound before it can go ahead. Another public opinion poll showed that only 18% of Canadians are convinced most industries are doing enough to inform their employees and the public about the toxic substances they use or manufacture and about their potential hazards. Finally, two thirds of Canadians consider Canada's efforts to fight acid rain to be inadequate.⁽³¹⁾

(29) Environment Canada, Canada's Environment: an Overview, Ottawa, 1986, 20 p.

(30) Environment Canada, Joint News release, "Environment/Statistics Canada Join Forces to Monitor Environmental Changes", Ottawa, 29 June 1987, 2 p.

(31) Environment Canada, Canada's Environment: an Overview, Ottawa, 1986, p. 20.

The issues debated in the House of Commons increasingly reflect the serious concern of Canadians about their environment. As can be noted on reading the official transcripts of the House of Commons proceedings, there have been many stormy debates over how best to go about preserving and promoting a healthy, productive environment. During recent years, issues such as air pollution, the transportation of dangerous substances, disposal sites, the dumping of toxic chemicals into waterways and the use of chemical pesticides have forced the government to adopt pollution control and measures to protect natural resources and the environment.

The seven provinces of eastern Canada have reached an agreement calling for the reduction of sulphur dioxide (SO₂) emissions to achieve a total of 2.3 million tonnes by 1994. In March of 1985, Cabinet approved a policy to fight acid rain, along with an overall action plan. In addition to its commitment to reduce SO₂ emissions by 50% by 1994, Canada has adopted more stringent vehicle emission standards in an effort to cut nitrogen oxide emissions by 45% beginning in 1988. These emissions are a major contributing factor to acid rain.⁽³²⁾ In May 1987, the Government of Canada tabled a concept paper before the Bilateral Advisory and Consultative Group on Acid Rain. The paper, which outlines elements of a possible bilateral agreement, states that to be acceptable to Canada, such an accord must have definite targets and schedules for acid rain reduction. The Canadian objective is to reduce the flow of U.S. sulphur dioxide emissions into Canada to two million tonnes by 1994.⁽³³⁾

Many measures have been taken recently to lessen the impact of toxic chemicals on the environment and health. Of particular note is the new federal regulation on lead in gasoline, which becomes effective on 1 January 1987: by the year 2000, it will cut lead emissions by 95% from the all-time high of 14,360 tonnes recorded in 1973. Environment Canada

(32) Environment Canada, Annual Report 1984-1985, Ottawa, 1986, p. 6.

(33) Environment Canada, Press Release, Meeting of the Canada-U.S. Working Group on an Acid Rain Accord, Ottawa, 30 July 1987, 2 p.

also intends to phase out leaded gasoline completely by 31 December 1992.(34)

In addition, new provisions were recently introduced regarding the use and release of PCBs into the environment, establishment of the National Incinerator Testing and Evaluation Program, introduction of new regulations governing the transportation of chemicals, development of a plan of action regarding dioxins, and creation of a Steering Committee within the Canadian Council of Resource and Environment Ministers.

The acuteness of certain problems and the importance given to finding appropriate solutions is borne out by the new agreements concluded between the federal and provincial governments. For example, Canada and Ontario signed an agreement to fund research and the cleanup of the Great Lakes.(35) In an effort to establish a national water quality monitoring network, the provinces and territories were asked to negotiate agreements in this area with the federal government. Thus far, agreements have been concluded with Quebec (1984), British Columbia (1985) and Newfoundland (1986).(36)

Aside from the acid rain issue, which has led Canada and the U.S. to appoint special envoys to hammer out joint solutions, concern over the Great Lakes and Niagara River has prompted the two federal governments and the governments of Ontario and New York State to hold multilateral talks designed to find ways of reducing the amount of toxic chemicals in these bodies of water.(37) Development of a toxic substance management plan for the Niagara River recently led to the signing of an agreement between the parties involved. The statement of intent making the management plan official commits the participants to reducing the quantity of

(34) Environment Canada, Press Release, "Good News About Air Pollution", 31 July 1986, 3 p.

(35) Environment Canada, Joint News Release, "Canada and Ontario sign renewed Great Lakes Agreement", 6 March 1986, 2 p.

(36) Environment Canada, Joint News Release, "Canada-Newfoundland Water Quality Monitoring Agreement Signed", 29 April 1986, 2 p.

(37) Environment Canada, Joint News Release on the Cleanup of the Niagara River, 14 May 1986, 3 p.

persistent toxic substances dumped into both sides of the Niagara by 50% by 1996.(38)

As far as marine environmental quality protection is concerned, Canada has passed laws to safeguard the aquatic environment and marine life. In addition to the Fisheries Act,⁽³⁹⁾ which empowers Fisheries and Oceans Canada to protect fish stocks and their habitat, the Ocean Dumping Control Act (ODCA)⁽⁴⁰⁾ passed by the Canadian Parliament in 1975 reflects Canada's commitment to fulfilling its obligations under the London Dumping Convention (LDC) and its concern about marine environmental protection. Under the terms of the LDC and the ODCA, Canada is committed to taking steps to prevent marine pollution resulting from the dumping of wastes and to promote control of all sources of marine pollution. The chief provision of the ODCA stipulates that all dumping must be carried out in accordance with the terms and conditions of a permit. The legislation also prohibits the disposal of certain substances, unless certain special conditions (listed in Schedule I of the legislation) are met. The use of a certain number of other substances is restricted and their disposal at sea is closely regulated (Schedule II of the Act). It should be noted that of the 139 permits issued in 1984, 115 were for the dumping of dredged material.⁽⁴¹⁾

As a signatory to the Law of the Sea Convention, Canada is committed to meeting its obligations in the area of marine environmental quality: passing laws compatible with international standards; supporting regional international organizations; drafting new, more specific conventions; promoting scientific research into the marine environment; ensuring follow-up to and assessment of relevant activities and upholding the terms of the Convention. Indeed,

(38) Environment Canada, Joint News Release, "Environmental Heads Responsible for Niagara River Sign Clean-Up Accord", 4 February 1987, 2 p.

(39) R.S.C. 1970, c. F-14.

(40) S.C. 1975, c. 55.

(41) Environment Canada, Keeping the Ocean Clean: Ocean Dumping Control Act 1984-1985 Annual Report, Ottawa, 1986, 28 p.

Each obligation places new demands on Canada's domestic marine environmental mechanisms. For example, in April of 1985, when UNEP sponsored a multilateral Working Group meeting in Montreal to discuss guidelines for protecting the marine environment from land-based pollution, Canada acted as host and initiated and developed the technical documentation.

As a result of the Canadian initiatives, the "Montreal Guidelines" were prepared and later approved by UNEP in Nairobi. They provide the framework within which governments can develop appropriate bilateral, regional and multilateral agreements, as well as a national legislation, to protect the marine environment against land-based pollution. They also give governments ground rules for control strategies based both on use and on environmental objectives.(42)

B. Canada's International Activities

1. Information: a Key Component

Canada is involved in many international organizations and programs designed to preserve, protect and develop the planet's resources. These include the United Nations Environment Program, the International Union for the Conservation of Nature and Natural Resources and the International Association of Water Resources. Canada is also a signatory to a great many international conventions, including the Convention for the Protection of World Cultural and Natural Heritage, and has concluded a number of bilateral agreements with various countries calling for cooperation in the area of natural resource management.

During the months of May and June 1986, Canada played host to three major conferences on the environment. In turn, the World Commission on Environment and Development, the Conference on World Conservation Strategy and the Third Conference on the Future of the World

(42) Environment Canada, Survival in a Threatened World, Submission by the People of Canada to the World Commission on Environment and Development, Ottawa, May 1986, p. 19.

stressed the interdependence of countries, in so far as maintaining the quality of their environment is concerned, as well as the importance of integrating environmental considerations into development policies. As the Canadian Minister of the Environment said in a Speech to the World Commission on Environment and Development, Canada is aware of the importance of speed and of preventive measures in this area. On this point, the Minister recommended that "the World Commission on Environment and Development suggest a process by which countries may continuously share global knowledge, policies and methods of working towards solutions." (43)

In light of this proposal, it is important to underscore Canada's efforts to respond to the challenges stemming from chemical pollution in the world. The international community has already recognized the need for exporting countries to alert importing nations to the impending shipment of substances that are either banned or severely restricted in the exporting country. Through such an exchange of information, importing countries would be in a position to make informed, timely decisions about regulating a particular chemical. As both an importer and exporter of chemicals, Canada would like to see such information and exchanges and participates in the work of several international organizations which are examining this issue. In April of 1984, the Department of External Affairs published a directive respecting the export of potentially hazardous foods, drugs, cosmetics, medical or radiation-emitting devices.

Internationally, the Organization for Economic Co-operation and Development (OECD) has taken a lead role in the area of export notification and information exchange. In April 1984, it passed a recommendation encouraging member countries to exchange information, taking into account a set of guiding principles. Canada supports the OECD recommendation. Therefore, it should ensure that sufficient legislative authority exists to guarantee that importing countries are provided with adequate notification of export products either banned or severely restricted in Canada in order to protect human health or the environment.

(43) Environment Canada, Notes for an Address by the Honourable Tom McMillan, Minister of the Environment, to the World Commission on Environment and Development, Ottawa, 26 May 1986, p. 16.

Steps are now under way to amend the Environmental Contaminants Act so as to allow the Department of the Environment to implement the recommendations of the OECD Council.(44)

2. Developing Countries

Several of the recommendations formulated at the Nairobi Inter-Parliamentary Conference on the Environment deal with the environmental problems facing developing countries. Issues such as desertification, soil erosion, deforestation and drinking water were the focus of much attention.

The majority of Canadian government international aid programs are administered by the Canadian International Development Agency (CIDA).(45) Since its creation in 1968, CIDA has focused a great deal of attention on issues affecting the environment and development through its bilateral programs (government to government), multilateral programs (aid to international organizations), special programs (aid to non-governmental and institutional organizations) and cooperative programs with the business community.

In recent years, CIDA has initiated a growing number of projects aimed at improving the environment through the conservation, protection and development of natural resources. For example, more than half of its forestry projects have an environment component, while most integrated rural development projects call for reforestation measures.

One of the priorities of CIDA's aid program is the enhancement of human resources. Other priorities are agriculture (including fisheries and forests) and energy. The aim of Canadian assistance to the agricultural sector is to increase agricultural production and food safety in Third World countries. Assistance takes many forms, chiefly training, the transfer of dry-land cultivation techniques, livestock management,

(44) Environment Canada, Proposals for Amendments to the Environmental Contaminants Act: Report of the Interdepartmental Working Group on Export Notifications Amendments, unpublished report of the Commercial Chemicals Branch, Ottawa, August 1984, 28 p.

(45) Canadian International Development Agency, "Environment", Development, Special Issue, Hull, June 1986, 50 p.

research, disease and insect control, seed supply, grain storage, land and water development, including irrigation and drainage, and the processing and conservation of agricultural products.

More than 80% of fisheries aid is provided through CIDA's bilateral and special programs. Bilateral programs centre chiefly on resource management, aquaculture, processing, distribution, marketing and training. The emphasis is on small-scale fishing operations, a practice in keeping with the World Fisheries Charter adopted at the last International Conference on Fisheries Management which stressed the development of small fishing industries as the best way of improving the socio-economic situation of local communities.

The forestry sector component of the Canadian assistance program also meets environmental concerns. Of the 107 bilateral forestry development projects undertaken by CIDA up to 1984, 60% were geared to ensuring sustained production of forestry resources, while the remainder focused on the controlled development and use of forests. The aim of the majority of CIDA forestry projects is to resolve certain environmental problems, ranging from reforestation of the Sahel to the redevelopment of hydrographic basins in Asia and Latin America. A broad-based approach founded on a solid program is needed in order to counter forest productivity losses and soil degradation. This requirement prompted CIDA to review its forestry guidelines in 1983-1984 and as a result, a forestry strategy was drafted for the year 2000 with a view to helping developing countries manage their forest resources effectively, encouraging the controlled use of forests and creating new forest resources.

Canada also helps developing countries develop and utilize their water resources. Assistance is provided in the areas of waterworks development, resource management, development and maintenance of facilities, training, irrigation, supply and purification. CIDA attaches great importance to water development programs, since these are tied to agricultural, energy and human resource development, three areas of priority consideration.

Finally, it is important to note that CIDA is at present at work reviewing environment and development policy guidelines with a view to

increasing its ability to assess and contribute to environmentally sound projects.(46)

3. African Aid

In 1985, Canada developed a new program of bilateral assistance to countries of the Sahel. The program, which adopts a true interventionist strategy with one main objective, the re-establishment of the socio-economic balance of the Sahel, is designed to support countries in this region as they work toward renewed agricultural activity. The three areas of activity -- stabilization of the plant cover, restoration of the food balance, and energy development help increase food production, improve food supplies to the poorest, combat crop disease, ensure food self-sufficiency and balanced nutrition in rural regions and promote renewable energy resources.(47)

On 6 May 1986, the Minister of External Relations, Mrs. Monique Vézina, announced the launching of the Africa 2000 initiative, a series of commitments on the part of the Canadian government to meet the needs of African countries over the next 15 years. Africa 2000 has three main dimensions: partnership between the government and the private sector; reorientation of development assistance policies; and international cooperation. Over the next five years, \$150 million will be made available for this initiative over and above the amounts allocated to Africa, bringing total funding for 1986-1987 alone to more than \$900 million. Agriculture, reforestation and sound nutrition are the priorities of the development projects. CIDA hopes to undertake 2,000 small projects by the end of 1987.(48)

(46) Canadian International Development Agency, Environmental Assessment Framework: General Description, Hull, 1 May 1986, 15 p.

(47) Canadian International Development Agency, A Long-Term Solution for the Sahel: Canadian Bilateral Assistance, Hull, June 1985, 28 p.

(48) Canadian International Development Agency, Statement by the Honourable Monique Vézina, Minister for External Relations, on the occasion of the launching of the Africa 2000 initiative in the House of Commons, Ottawa, 6 May 1986, 6 p.

At a special UN session on the critical economic situation in Africa, Mrs. Vézina proposed the creation of a multilateral mechanism (creation of the Africa 2000 Network under the direction of the United Nations Development Program) to make available funds and technical expertise to help African communities carry out projects of their own choosing to meet their needs in the areas of agriculture, forestry and food production. Canada will devote \$20 million for five years to this new project. This initiative follows the announcement of a five-year moratorium on the repayment of development loans totalling \$700 million to African countries.(49)

All of these Canadian government initiatives are in keeping with the recommendations formulated at the Nairobi Conference and contribute to the important fight against desertification, deforestation and soil erosion in developing countries.

C. Preserving Biological Resources and Their Diversity(50)

The World Conservation Strategy (WCS) represents a global consensus on the role of conservation in world development. Its purpose is to draw the attention of world leaders and decision-makers to the increasingly dangerous stresses being placed on the biosphere, and to convince them that both life itself and sustained economic prosperity depend on the biosphere and on the wise use of its resources. Three objectives are central to the WCS: maintaining essential ecological processes and life-support systems, preserving genetic diversity and ensuring sustainable utilization of species and ecosystems.

(49) Canadian International Development Agency, Statement by the Honourable Monique Vézina, Minister for External Relations of Canada, to the Special Session of the United Nations General Assembly on the Critical Economic Situation in Africa, New York, 27 May 1986, 6 p.

(50) D.F.W. Pollard and M.R. McKechnie, World Conservation Strategy-Canada: a Report on Achievements in Conservation, Ottawa, Environment Canada, May 1986, 61 p.

Canada has not yet developed its own unified national conservation strategy. However, a long-standing commitment to conservation has resulted in specific strategies and policies for certain natural resource sectors (fisheries, forests, agriculture, etc.) and in some cross-sectoral strategies at national and subnational levels. Some of these strategies were modelled on the three WCS objectives. Moreover, a number of initiatives have been taken by the provinces and territories. For example, in 1986 Quebec prepared a comprehensive statement providing a detailed account of the province's policies, programs and achievements within the framework of the WCS. Furthermore, in 1985 the Ontario government provided funds to the Conservation Council of Ontario to review provincial development and conservation policies and programs in light of WCS objectives and to make recommendations.

Canada does not yet have a national soil and water conservation body at the policy-making level. However, in its report Soil at Risk (1984), the Standing Senate Committee on Agriculture, Fisheries and Forestry pointed to the fact that such an organization was indeed needed. With respect to the country's northern regions, the Canadian government has established a framework for a comprehensive conservation policy and a strategy for its implementation. Furthermore, progress has been made in establishing a network of protected areas to preserve species and their habitats and unique and representative ecosystems. Other areas of national or international importance have also been officially recognized.

Other important conservation work has recently been undertaken. After doing the necessary research, the Wetlands Working Group of the Canada Committee on Ecological Land Classification developed and applied a national system of classification of wetlands. Inventories enable resource managers to assess and monitor changes in these lands and to develop strategies and policies. Moreover, the Wildlife Habitat Canada Foundation was established in 1984 as a private non-profit organization to preserve all types of wildlife habitat. The foundation provides expertise, planning and coordination to agencies working for wetland conservation and also carries out research and acquisition of wetlands. It should also

be mentioned that Environment Canada and the U.S. Fish and Wildlife Service have joined efforts to draft a North American Waterfowl Management Plan to conserve continental waterfowl populations and their wetland habitats from 1986 until the year 2000.

Another example of recent Canadian government initiatives in habitat conservation is the policy proposed in 1985 by Fisheries and Oceans Canada for management of the fish habitats which are vital to our country's fishery resources.⁽⁵¹⁾ In the summer of 1987, Ottawa also hosted an international conference on wildlife trade when for the first time the General Meeting of the Convention on International Trade in Endangered Species (CITES) was held in North America. CITES regulates the international trade of more than 2,000 wild animal and plant species. In Canada, CITES regulations are administered by the Canadian Wildlife Service and enforced by Canada Customs under the Export and Import Permits Act.⁽⁵²⁾ Finally, a Canadian-U.S. agreement was signed in July 1987 to protect the Porcupine caribou herd. The accord reflects more than 10 years' work and covers the largest caribou herd in the world, numbering about 180,000 animals.⁽⁵³⁾

D. The World Commission on Environment and Development

The World Commission on Environment and Development is an independent body created in 1983 to examine critical environment and development problems and to propose better ways and means for the world community to address them. In its resolution 38/161, the General Assembly of the United Nations welcomed the establishment of the Commission.

Chairperson Dr. Gro Harlem Brundtland (Prime Minister of Norway) and Vice Chairperson Dr. Mansour Khalid (former Sudanese Foreign

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- (51) Fisheries and Oceans Canada, Proposed Policy and Procedures for Fish Habitat Management, Ottawa, 31 May 1985, 29 p.
- (52) Environment Canada, Press Release, "Canada Hosts Wildlife Trade Conference", Ottawa, 9 July 1987, 2 p.
- (53) Government of Canada, Press Release, "Canada-U.S. Sign Agreement to Conserve Porcupine Caribou Herd", Ottawa, 17 July 1987, 2 p.

Affairs Minister) chose the other 20 members of the Commission from a wide range of political figures and leaders in the areas of environment and development from around the world. Canada is represented by Commissioner Maurice F. Strong (former Executive Co-ordinator of the United Nations Office for Emergency Operations in Africa), and Secretary-General and ex-officio commissioner Jim MacNeill.

In order to carry out its mandate, the Commission asked for the views and the support of governments, international and non-governmental organizations, and the business and scientific communities, as well as the public at large. Official meetings and public hearings were held on five continents: Jakarta (Indonesia), March 1985; Oslo (Norway), June 1985; Sao Paulo and Brasilia (Brazil), October and November 1985; Vancouver, Edmonton, Toronto, Ottawa, Halifax and Quebec City (Canada), May 1986; Harare (Zimbabwe), September 1986; Nairobi (Kenya), September 1986; Moscow (USSR), December 1986; Tokyo (Japan), February 1987.

Over 500 briefs, totalling more than 10,000 pages, were tabled with the Commission. In addition, to expand its information and expertise base, the Commission put together a group of special advisers whose role was to assist the Commission, and committees of expert consultants on three of the key issues: energy, industry and food security.

The final 383-page report was tabled by Dr. Brundtland in London, England, on 27 April 1987.⁽⁵⁴⁾ Through such bodies as the National Task Force on Environment and Economy, Canada is now preparing its response to the report, which received special attention in the House of Commons on 15 May 1987.⁽⁵⁵⁾ Members of the House clearly recognized the importance of supporting and promoting the spirit and recommendations of the report, and acknowledged that the concept of sustainable development favours a global approach with the focus on ecosystems at the regional, national and international levels.

(54) The World Commission on Environment and Development (Gro Harlem Brundtland, Chairperson), Our Common Future, London, April 1987, 383 p.

(55) House of Commons, Hansard, 2nd session, 33rd Parliament, Vol. 129, No. 122, 15 May 1987, p. 6152-6176.

Response to the report in the form of public debate and further briefs will be heard during a special debate to be held when the 42nd session of the United Nations meets in October of this year. To achieve the necessary shifts in attitudes, policies, and organizations, the Commission is urging the General Assembly of the United Nations to convert the report into a program of action for sustainable development. Stressing the urgent need for action, the commissioners conclude their report with a very clear statement:

We are unanimous in our conviction that the security, well-being, and very survival of the planet depend on such changes, now.(56)

CONCLUSION

Canada's parliamentarians share with all Canadians a growing awareness of a fact we can no longer ignore: we are all dependent on and directly affected by the environment. In her address to the organizing session of the World Commission on Environment and Development, Chairperson Dr. Gro Harlem Brundtland rightly pointed out:

The world is shrinking rapidly. We share a world economy; a world environment, which is the basis for the present and future world economy; and a stake in world development and a decent and dignified human condition of life. We must learn to think globally and in a long-term perspective. No single region or nation can isolate itself from the rest of the world. They share the responsibility for a common future.(57)

That future will be more secure when we are able to foresee problems and realize that our economy is not sustainable without a sound environment. It is both urgent and essential that we incorporate the environmental aspect into sectoral development policies and resource utilization. The maintenance and protection of a sound and diversified

(56) World Commission on Environment and Development (1987), p. 343.

(57) World Commission on Environment and Development, Information, Geneva, May 1984, p. 3.

environment depends on consideration of the environment's capacity to accommodate our development projects and on vigilant updating of our mechanisms for monitoring and intervention. We have already begun to pay for our shortsightedness and negligence. We must now work hard to repair what we can and prevent any further damage. The concept of crimes against the environment must continue to gain acceptance.(58)

The preceding pages bear witness to the concrete efforts made to protect and preserve natural resources in Canada and abroad. It appears that what is now needed is a comprehensive program of conservation measures to capitalize on the progress already made. In Canada, the Minister of the Environment has admitted that with 24 federal departments and agencies administering 57 acts affecting the environment, and with another 97 provincial acts in this area, there is a tangled web of guidelines and regulations that serves no one, except perhaps polluters.(59)

In the same vein, it is perhaps fitting to quote from a major Environment Canada report on conservation, which outlines the challenge of the future in the following terms:

As has been pointed out earlier, Canada does not have a national conservation strategy. A profusion of resource policies and strategies, a multiplicity of national and subnational policies and programmes, and the emergence of major cross-sectoral issues, some of them of international significance, suggest that a national strategy should be given consideration. The argument for such an undertaking is supported by Canada's leadership, often exemplary and unsolicited, in international affairs. Canada is deeply involved in international conservation activity, not only through sharing responsibilities for scientific research and technological information, but also through bilateral and multilateral assistance, and international conventions. We cannot convincingly recommend difficult yet rational courses of action for other nations without

(58) For additional information, see Law Reform Commission of Canada, Crimes Against the Environment, Working Paper 44, Ottawa, 1985, 75 p.

(59) Environment Canada, Notes for an Address by the Honourable Tom McMillan, P.C., M.P., Minister of the Environment, to the National Environmental Law Section of the Canadian Bar Association, Toronto, 26 January 1987, p. 1-2.

setting an example at home. Whether the World Conservation Strategy presents an acceptable model for a Canadian national strategy is a question for all to consider. Since a national strategy will of necessity embrace all elements of society, a decision on the next step should be subject to full public review and participation.(60)

Beyond any discussion of models of implementation, it can be argued that development is, more than ever, dependent on a massive social shift. This change, which will come regardless, must be channelled and directed toward a viable plan for human action. Through international bodies such as the Inter-Parliamentary Union,(61) parliamentarians the world over now have an opportunity and even a duty to work toward the establishment and implementation of an international code of environmental ethics. Canadians must support such a move and become the leaders in this field. However, this will only be possible to the extent that Canada can set an example and take the initiative in its own territory.

(60) Pollard and McKechnie (1986), p. 56.

(61) It should be noted that an ad hoc Committee to Survey the Progress Made in Implementing the Recommendations of the Inter-Parliamentary Conference of 1984 met at the United Nations Environment Program (UNEP) office in Nairobi from 23 to 25 February 1987. Canada was one of the 25 countries represented at that meeting. Following the meeting, the Canadian Group of the Inter-Parliamentary Union published an interesting report entitled Report on the Ad Hoc Committee to Survey the Progress Made in Implementing the Recommendations of the Inter-Parliamentary Conference on Environment.

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